THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.16262 of 2000

Between:

T.Narsanna. **….. PETITIONER**

AND

The A.P.State Road Transport Corporation and others.

….. RESPONDENTS

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ORDER:

This writ petition is filed challenging the proceedings No.Peshi/675(68)/98-RMA-NZB, dated 17-01-2000, issued by the Regional Manager, APSRTC, Nizamabad Region, Nizamabad, insofar as denying back wages and further imposing punishment of reduction of pay by two incremental stages for a period of two years with cumulative effect and treating the period of removal as not on duty.

It is the case of the petitioner that he was appointed as driver in APSRTC on 11-04-1979 and he has put in unblemished service of more than twenty years. While so, on 03-03-1999, an accident occurred due to the negligence of a pedestrian, who was crossing the road behind a Jeep without observing the movement of the bus, which resulted in his death. In view of the same, a regular disciplinary proceeding was initiated and on the conclusion of the disciplinary proceeding, he was removed from service on 15-07-1999. The appeal filed by the petitioner was dismissed. However, the review filed before the Regional Manager, Nizamabad, was allowed on 17-01-2000, directing reinstatement of the petitioner with continuity of service but without back wages and further imposing punishment of stoppage of two increments with cumulative effect and treating the period from the date of removal to the date of joining service as not on duty. Aggrieved by the same, the present writ petition has been filed.

Though no counter is filed, the learned counsel for the respondent strenuously contended that the petitioner driven the bus negligently and lack of anticipation, which resulted in killing a pedestrian. In fact, the Regional Manager himself has taken a very lenient view of the matter and granted the relief and no further relief can

be granted in the facts and circumstances of the case and, therefore, the writ is devoid of merits and is liable to be dismissed.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned proceedings and other material made available on record.

At the outset, I am of the opinion that the first respondent has not committed any error in finding the petitioner guilty of the charges and in view of his long standing clean service directing reinstatement of the petitioner with continuity of service, without backwages, treating the period, out of service, as not on duty and further imposing punishment of stoppage of two increments with cumulative effect. However, the learned counsel for the petitioner submitted that once the revisional authority came to the conclusion that the past long twenty years of service of the petitioner was clean, the denial of back wages and treating the period, out of service, as not on duty and further imposing the punishment of stoppage of two increments with cumulative effect are unwarranted in the facts and circumstances of the case.

The only consideration that can be made in favour of the petitioner is as to whether the period for which the petitioner was kept out of employment, can be treated as not on duty. In view of the Enquiry Officer's report that the pedestrian was also responsible for his negligence in crossing the road and clean service rendered by the petitioner, I am of the opinion that the order made by the first respondent to the extent of treating the period, out of service, as not on duty is liable to be set aside.

Accordingly, the order passed by the 1st respondent is modified to read as under:

"Reinstatement of the petitioner with continuity of service, without backwages and to impose punishment of stoppage of two increments with cumulative effect."

With the above modification, the writ petition is disposed of. No order as to costs.

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25-08-2005

Prv